

U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 15Mar2001

Case No.: 2001-STA-00016

In the Matter of

EMERY KAPRAL

Complainant

v.

LIQUITANE CORPORATION

Respondent

FINAL ORDER
APPROVING SETTLEMENT and DISMISSING THE COMPLAINT

This case arises under § 405 of the Surface Transportation Act of 1982, 49 U.S.C.A. § 31105 (formerly 49 U.S.C. § 2305) (the Act), which provides for employee protection from discrimination because the employee has engaged in protected activity pertaining to commercial motor vehicle safety and health matters, and the regulations promulgated under the Act, contained in 29 C.F.R. Part 1978. Hearing before me is scheduled to commence on March 28, 2001.

On March 13, 2001, the parties submitted for my approval a "Settlement Agreement" and an "Agreement and General Release." On March 15, 2001, the parties submitted a revised "Agreement and General Release" whose paragraph 7 contains revisions in the non-disclosure or confidentiality language of the settlement agreement originally submitted on March 13, 2001. Copies of these two documents, which together make up the parties' settlement agreement, are attached hereto.

The settlement agreement provides that, in settlement of this matter, Respondent shall pay Complainant a sum certain and pay his counsel an additional sum as attorney's fee and costs. The agreement provides that, in turn, Complainant withdraws with prejudice his appeal of the Department of Labor's dismissal of his complaint against Respondent filed under the Act. Further, Claimant waives all rights to reinstatement to employment with Respondent, and promises that he will not make future

application for employment with Respondent. The settlement agreement states that it contains the entire agreement between the parties.

The confidentiality provisions of the settlement agreement, as revised, are valid and do not conflict with the Freedom of Information Act, 5 U.S.C. § 552 (1988).^{*} The provisions of the settlement which limit Complainant's rights under other statutes do not come within my authority to approve. Thus, my approval of the settlement in this case extends only to the complaint as it relates to the Act. Finally, provisions in the agreement that could be construed to limit Complainant's right to file a cause of action in the future must be interpreted as limited to a waiver of his right to sue in the future on claims or causes of action arising out of facts occurring before the date of the settlement agreement.

I find that the parties' settlement agreement is fair, adequate, reasonable, and in the interest of Complainant and the public.

Consequently, the settlement agreement is approved and it is ORDERED that the complaint is dismissed with prejudice. It is further ORDERED that the hearing in this matter is canceled.

A

Robert D. Kaplan
Administrative Law Judge

Camden, New Jersey

^{*} The terms of a settlement agreement are agency records which are subject to the Freedom of Information Act and the procedures in 29 C.F.R. Part 70 (1993). Unless exempt, the Department of Labor must make such records available for public inspection and copying. Debose v. Carolina Power & Light Co., 92-ERA-14, Sec'y Order, Feb. 7, 1994, appeal dismissed, No. 94-1459 (4th Cir. Jan 10, 1995).